

JUDGE HOLWELL  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

07 CV X

2639

ROBERT HILL and SHANNON STURGES,

COMPLAINT

Plaintiffs,

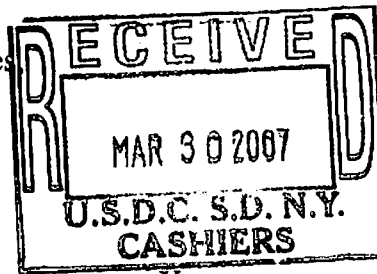
Index No.

-against-

Jury Trial  
Demanded

"JOHN" RHODES (Shield No. 2017), "JOHN" SMITH  
(Shield No. 1844), "JOHN" LUCUS (Shield No. 2110),  
"JOHN" GARDNER (Shield No. Unknown), "JOHN" PEDRO  
(Shield No. Unknown), and JOHN and JANE DOE  
1 through 10, individually and in their official capacities  
(the names John and Jane Doe being fictitious,  
as the true names are presently unknown),

Defendants,



-----X-----  
Plaintiffs ROBERT HILL and SHANNON STURGES, by their attorneys, Leventhal &  
Klein, LLP, complaining of the defendants, respectfully allege as follows:

**Preliminary Statement**

1. Plaintiffs bring this action for compensatory damages, punitive damages and attorney's fees pursuant to 42 U.S. §1983 and 42 U.S. §1988 for violations of their civil rights, as said rights are secured by said statutes and the Constitution of the United States.

**JURISDICTION**

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the First, Fourth, Eighth and Fourteenth Amendments to the United States Constitution.

3. Jurisdiction is found upon 28 U.S.C. §§1331, 1343 and 1367.

**VENUE**

4. Venue is properly laid in the Southern District of New York under U.S.C. § 1391(b), in that this is the District in which the claim arose.

**JURY DEMAND**

5. Plaintiffs respectfully demand a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38 (b).

**PARTIES**

6. Plaintiff ROBERT HILL is an African-American male, a citizen of the United States, and at all relevant times a resident of the City and States of New York. Plaintiff SHANNON STURGES is an African-American female, a citizen of the United States, and at all relevant times a resident of the City of States of New York.

7. New York State maintains the New York State Division of Parole, a duly authorized public authority and/or parole department, authorized to perform all functions of a parole department as per the applicable laws of the State of New York.

8. That at all times hereinafter mentioned, the individually named defendants, "JOHN" RHODES, "JOHN" SMITH, "JOHN" LUCUS, "JOHN" GARDNER, "JOHN" PEDRO, and JOHN and JANE DOE 1 Through 10, were duly sworn parole officers of said department and were acting under the supervision of said department and according to their official duties.

9. That at all times hereinafter mentioned the defendants, either personally or through their employees, were acting under color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages and/or practices of the State of New York.

10. Each and all of the acts of the defendants alleged herein were done by said defendants while acting within the scope of their employment for the State of New York.

11. Each and all of the acts of the defendant alleged herein were done by said defendants while acting in furtherance of their employment for the State of New York.

### **FACTS**

12. On October 7, 2005, at approximately 1:30 a.m., plaintiffs ROBERT HILL, and SHANNON STURGES were lawfully present at 2630 Kingsbridge Terrace, Bronx, New York.

13. At the aforesaid time and place, the defendants, members of the New York State Division of Parole, unlawfully entered the residence without a search warrant. The defendants proceeded to handcuff and arrest both plaintiffs without probable cause, and unlawfully searched the apartment.

14. Realizing that they had no basis to detain plaintiff SHANNON STURGES, the defendants released Ms. Sturges after approximately twenty-four hours in police custody.

15. Plaintiff ROBERT HILL was detained on false allegations by the defendants that he violated the terms and conditions of his parole. Upon information and belief, Mr. Hill was incarcerated and forced to defend the baseless charges until he was exonerated after a hearing on or about December 22, 2005.

16. As a result of the foregoing, plaintiffs ROBERT HILL and SHANNON STURGES sustained, *inter alia*, emotional distress, embarrassment, and humiliation, and deprivation of their constitutional rights.

### **AS AND FOR A FIRST CAUSE OF ACTION (Deprivation of Rights under 42 U.S.C. § 1983)**

17. Plaintiffs repeat, reiterate and reallege each and every allegation contained in

paragraphs "1" through "16" with the same force and effect as if fully set forth herein.

18. All of the aforementioned acts of defendants, their agents, servants and employee were carried out under the color of state law.

19. All of the aforementioned acts deprived plaintiffs ROBERT HILL and SHANNON STURGES of the rights, privileges and immunities guaranteed to citizens of the United States by the Fourth, Fifth, Eighth and Fourteenth Amendments to the Constitution of the United of America, and in violation of 42 U.S.C. §1983.

20. The acts complained of were carried out by the aforementioned individual defendants in their capacities as law enforcement officers, with the entire actual and/or apparent authority attendant thereto.

21. The acts complained of were carried out by the aforementioned individual defendants in their capacities as parole officers, pursuant to the customs, usages, practices, procedures, and the rules of the State of New York and the New York State Division of Parole, all under the supervision of ranking officers of said department.

22. Defendants, collectively and individually, while acting under color of state law, engaged in conduct that constituted a custom, usage, practice, procedure or rule of the respective authority, which is forbidden by the Constitution of the United States.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**(Unlawful Search and Seizure under 42 U.S.C. § 1983)**

23. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs numbered "1" through "22" with the same force and effect as if fully set forth herein.

24. The illegal home invasion, stop and searches employed by defendants herein terminated plaintiffs ROBERT HILL and SHANNON STURGES' freedom of movement

through means intentionally applied.

25. As a result of the aforementioned conduct of defendants, plaintiffs ROBERT HILL and SHANNON STURGES' constitutional rights were violated.

**AS AND FOR A THIRD CAUSE OF ACTION**  
**(Failure to Intervene under 42 U.S.C. § 1983)**

26. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs numbered "1" through "25" with the same force and effect as if fully set forth herein.

27. Defendants had an affirmative duty to intervene on behalf of plaintiffs ROBERT HILL and SHANNON STURGES, whose constitutional rights were being violated in their presence by other officers.

28. The defendants failed to intervene to prevent the unlawful conduct described herein.

29. As a result of the foregoing, plaintiffs ROBERT HILL, and SHANNON STURGES' liberty was restricted for an extended period of time, they were put in fear of their safety, and they were humiliated and subjected to handcuffing and other physical restraints, without probable cause.

**AS AND FOR A FOURTH CAUSE OF ACTION**  
**(Deprivation of Substantive Due Process under 42 U.S.C. § 1983)**

30. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs numbered "1" through "29" with the same force and effect as if fully set forth herein.

31. The defendants conduct herein was an abuse of executive power so clearly unjustified by any legitimate objective of law enforcement as to be barred by the Fourteenth Amendment.

32. As a result of the foregoing, plaintiffs ROBERT HILL and SHANNON

STURGES were deprived of their right to substantive due process.

**AS AND FOR A FIFTH CAUSE OF ACTION**  
**(Malicious Abuse of Process under 42 U.S.C. § 1983)**

33. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs numbered "1" through "32" with the same force and effect as if fully set forth herein.

34. Defendants caused ROBERT HILL to be charged with violations of parole that had to be defended through a hearing.

35. Defendants caused plaintiff ROBERT HILL to be prosecuted in order to obtain a collateral objective outside the legitimate ends of the legal process, to wit: to cover up their unlawful acts.

**AS AND FOR A SIXTH CAUSE OF ACTION**  
**(False Arrest under 42 U.S.C. § 1983)**

36. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs numbered "1" through "35" with the same force and effect as if fully set forth herein.

37. Defendants arrested both plaintiffs without any probable cause.

38. As a direct result of the foregoing, plaintiffs were subjected to false arrest in violation of 42 U.S.C. § 1983.

**AS AND FOR A SEVENTH CAUSE OF ACTION**  
**(Malicious Prosecution under 42 U.S.C. § 1983)**

39. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "1" through "38" with the same force and effect as if fully set forth herein.

40. Defendants, collectively and individually, while acting under color of state law, initiated, commenced and continued a malicious prosecution against plaintiff HILL, alleging, *inter alia*, that he violated the terms of his release.

41. On or about December 22, 2005, all charges were dismissed after a hearing.

42. As a result of the foregoing, plaintiff HILL was subjected to a malicious prosecution.

**WHEREFORE**, plaintiffs ROBERT HILL and SHANNON STURGES demand judgment and pray for the following relief, jointly and severally, against the defendants:

(A) full and fair compensatory damages in an amount to be determined by a jury:

(B) punitive damages in an amount to be determined by a jury:

(C) reasonable attorney's fees and the costs and disbursements of this action; and

(D) such other and further relief as appears just and proper.

Dated: Brooklyn, New York  
February 20, 2007

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Attorneys for the Plaintiffs  
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(718) 722-4100

By: Brett H. Klein  
BRETT H. KLEIN (BK4744)

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Attorneys for Plaintiff Robert Hill and Shannon Sturges  
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